Public Utility Easements (PUE's) relating to liability issues

Requested by: California
Survey Deadline: July 12, 2007

Question:
California asks:

How does your State DOT handle Public Utility Easements (PUE's) relating to liability issues? Do PUE's convey a property right or is it an encroachment permit situation with any utility company who occupies the PUE?

Lorrie L. Wilson
Office of Organizational Development and Utility Relocations Division of Right of Way and Land Surveys
916/653-2132
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VIRGINIA

Virginia Department of Transportation
Any utility occupying VDOT owned right of way in there by permit not by easement.

Greg Wroniewicz, PE
State Utility Engineer
804-786-2931

WISCONSIN

Wisconsin DOT treats utility facilities in a Public Utility Easement as if they had their own easement. We consider the Public Utility Easement to be a land right for all utilities occupying the easement. When we acquire new right of way that has existing Public Utility Easements, we extinguish any land rights of utilities occupying that easement.

Ernest J Peterson, P.E.
OKLAHOMA

Oklahoma responds as follows:

The Department acquires the utility easement whereby the Department compensates the property owner for the right to use the property for the purposes of placing public utilities within public right-of-way. The right of public utilities to utilize public right-of-way is statutory, the law says that the public utilities have the right to use the public right-of-way as long as they comply with the Department’s rules. This process does not convey a compensable property right to the public utility.

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Chief, Right-of-Way & Utilities
Okla. Dept. of Trans.
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DELAWARE

In Delaware it’s an encroachment permit situation with any utility company who occupies the PUE.

Thanks,

Francis J. (Fran) Hahn, PE, AICP, Utilities Engineer
Delaware Department of Transportation
302-760-2269
ARIZONA

We do not have PUE's in State R/W. When we take new right of way we extinguish all existing easements and provide the utility with a permit with prior rights status

Bruce Vana
Eng - Mngr
Utility and Railroad Engineering Section

UTAH

In Utah easements are considered a property right.

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MARYLAND

Maryland

The utility companies have approached this office to replace PUE's acquired for highway improvements. To date, we have paid for relocations, but have denied acquiring additional property to replace the PUE's. We have considered the PUE to be public property already and the utility possessory rights to be permissive without any real property interests.
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**MICHIGAN**

The **Michigan** DOT does not typically grant public utilities easements within highway right-of-way. Utility installations are granted permission to use the right-of-way by way of permit - which conveys no property rights to the utility company or municipality.

Mark A. Dionise, P.E.
Michigan Department of Transportation
Utility Coordination and Permits Engineer
(517) 373-7682

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**IOWA**

Utilities are not on public ROW by easement in **Iowa**. They are there by permit.

Gerry Ambroson
Utility Relocation
Iowa Dept. of Transportation
Phone: (515) 239-1014
FAX: (515) 817-6684

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**ARKANSAS**
The Arkansas State Highway & Transportation Department does not grant Public Utility Easements (PUE's). Utilities may be issued permits to place their facilities on Department right of way as long as they adhere to the requirements of the permit and State regulations governing the permits. The permit stipulates how utilities must be installed to minimize risk to the traveling public, and makes the utility responsible for the proper installation. The state assumes no liability.

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IDAHO

Question from California; How does your State DOT handle Public Utility Easements (PUE's) relating to liability issues?

Response from the Idaho Transportation Department; Liability issues are not specifically addressed.

Question from California; Do PUE's convey a property right or is it an encroachment permit situation with any utility company who occupies the PUE?

Response from the Idaho Transportation Department; Ninety-nine percent of the time an utility encroachment permit is issued for the utility owner to relocate facilities within the road right-of-way. One percent of the time the easement of the owner is replaced in kind outside of the road right-of-way.

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